

REMARKS/ARGUMENTS

Claims 1-5, 7-14, and 23-25 are pending. The Office Action rejected claims 1-4, 7, and 9-14 as anticipated by U.S. Patent No. 6,499,595 to Petricca. Claims 23-25 were rejected as obvious based on U.S. Patent No. 5,213,227 to Koyama in view of U.S. Patent No. 4,890,758 to Gailus. Claims 1-3, 8, and 9 were rejected as obvious based on U.S. Patent No. 5,069,355 to Matuszak in view of Petricca.

Claim 1 recites that the container side wall has an upper edge that is circular, and that the flange has an outer peripheral edge that is circular but radially offset by an offset distance from the circular edge of the side wall, such that the width of the flange varies about its circumference, which causes the width of the seal between the flange and the membrane to have a reduced-width portion relative to other portions of the seal. The assertion that Petricca discloses these features is erroneous. The outer periphery of the flange in Petricca is not circular, nor is the upper edge of the container side wall circular. Petricca's container is substantially rectangular. Furthermore, the outer periphery of the flange is not generally parallel to and radially offset from the upper edge of the side wall, as clear from Figure 4. Applicant respectfully submits, therefore, that the invention of Claim 1 is neither disclosed nor suggested by Petricca, and hence is patentable.

With regard to Claim 4, it includes a pull-tab portion in registration with the reduced-width portion of the seal. The reduced-width portion is provided by virtue of the outer peripheral edge of the flange being parallel to but radially offset from the circular upper edge of the side wall, so that *the flange width, and hence the seal width, varies about the circumference* (see Claim 1). The tab is in registration with a location at which the flange width and hence the seal width is smaller than at other locations about the circumference of the flange.

This is not true of Petricca's container. In fact, Petricca's tab 24 is located at the *widest point* of the flange, not at a narrow part. Nothing in Petricca would have suggested providing a reduced-width portion of a seal in the manner called for by Claim 4, and locating a pull-tab portion of the lid in registration with the reduced-width portion. Petricca takes an entirely

different approach to facilitate opening his container, by providing a frangible portion **24** of the flange at a location where the flange is widest. The frangible portion breaks away from the flange when bent upward. Although the remaining part of the flange adjacent the frangible portion **24** is narrow, that narrow part of the seal is not provided in the manner called for by Claim 4, which requires that the outer peripheral edge of the flange and the upper edge of the side wall be parallel but radially offset so as to create the reduced-width portion of the seal.

Accordingly, it is submitted that Claim 4 is neither disclosed nor suggested by Petricca, and hence is patentable.

Claim 23 is directed to a container in which the flange has a circular peripheral edge concentric with the circular edge of the sidewall such that a width of the flange is substantially constant about a circumference of the flange. A flexible membrane lid is sealed to the outer surface of the flange to initially close the opening by a sealant that is applied to the flange in a generally annular pattern, the annular pattern having a first circular edge and a second edge generally parallel to but radially offset by an offset distance relative to the first circular edge such that a width of the seal varies about a circumference of the flange by the offset distance. The Office Action rejected this claim as obvious based on Koyama and Gailus.

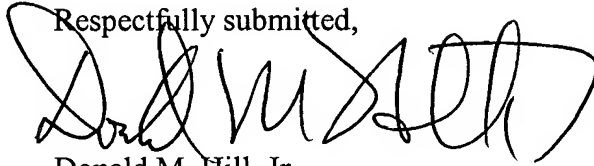
Applicant respectfully disagrees with the rejection. Koyama discloses a circular container having a constant-width flange and a constant-width seal. Gailus discloses, in Figure 9, a membrane sealant applied in a pattern that includes a localized reduced-width portion adjacent the pull tab. However, Claim 23 requires more than just a reduced-width portion. Claim 23 requires the sealant pattern to have a first circular edge and a second edge generally parallel to but radially offset by an offset distance relative to the first circular edge such that a width of the seal varies about a circumference of the flange by the offset distance. Neither Koyama nor Gailus discloses such a sealant pattern. It is therefore submitted that Claim 23 is patentable over the references.

Appl. No.: 10/682,183
Amdt. dated 09/27/2005
Reply to Office action of July 6, 2005

Conclusion

Based on the above remarks, it is respectfully submitted that all of the claims are patentable over the cited references.

Respectfully submitted,

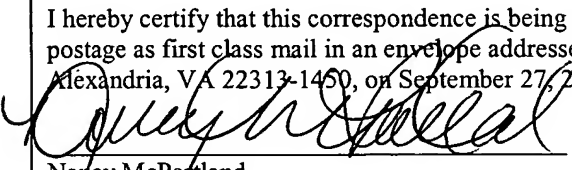


Donald M. Hill, Jr.
Registration No. 40,646

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 27, 2005



Nancy McPartland

CLT0174750625/1